

REMARKS

This Amendment is filed in response to the Office Action mailed on November 15, 2004. All objections and rejections are respectfully traversed.

Claims 1- 24 are in the case.

Claim 1 was amended to better claim the invention.

Claim 24 was added to better claim the invention.

At Paragraphs 1-2 of the Office Action, claims 1-23 were rejected under 35 U.S.C. 102(e) as being anticipated by Cheng, et al. U.S. Patent No. 6,802,021 issued October 5, 2004 (hereinafter Cheng).

Applicant's claimed novel invention, as set forth in representative claim 1, comprises in part:

1. A method for performing an input/output operation to a storage device from a computer, the storage device having one or more data paths to the computer, the method comprising the steps of:
selecting a first data path from a set of data paths to the storage device;
attempting the input/output operation using the selected first data path;
selecting, in response to an error in the input/output operation using the first data path, a next data path from the set of data paths; and
attempting the input/output operation using the selected next data path.

Cheng discloses a data storage system having multiple paths from a computer to an I/O device. An I/O request is intercepted, a failure probability is calculated for each data path. The path having the lowest failure probability is selected for the I/O request.

Applicant respectfully urges that Cheng has no disclosure of Applicant's claimed novel *selecting a first data path from a set of data paths to the storage device;*

attempting the input/output operation using the selected first data path;

selecting, in response to an error in the input/output operation using the first data path, a next data path from the set of data paths; and

attempting the input/output operation using the selected next data path.

That is, Applicant claims first *attempting the input/output operation using the selected first data path*. Then, Applicant claims *selecting, in response to an error in the input/output operation using the first data path, a next data path from the set of data paths*. Finally Applicant's claimed novel invention performs the step of *attempting the input/output operation using the selected next data path*.

Cheng simply calculates a probability for each data path, and then selects the data path having the lowest probability of failure. In sharp contrast, Applicant first tries a *selected first data path*. Then, in the event of failure of the first data path, Applicant selects

a next data path. Finally, Applicant's claimed novel invention uses the *selected next data path* in an attempt to perform the *input/output operation*.

Again, Applicant respectfully urges that Chen has no disclosure of Applicant's claimed novel selecting *a next data path* in the event of failure of *a first data path*.

Accordingly, Applicant respectfully urges that Chen is legally precluded from anticipating the presently claimed invention obvious under 35 U.S.C. 102 because of the absence from Chen of Applicant's claimed novel *selecting a first data path from a set of data paths to the storage device;*

attempting the input/output operation using the selected first data path;
selecting, in response to an error in the input/output operation using the first data path, a next data path from the set of data paths; and
attempting the input/output operation using the selected next data path.

All independent claims are believed to be in condition for allowance.

All dependent claims are believed to be dependent from allowable independent claims, and therefore in condition for allowance.

Favorable action is respectfully solicited.

Please charge any additional fee occasioned by this paper to our Deposit Account

No. 03-1237.

Respectfully submitted,

A handwritten signature in cursive script, reading "A. Sidney Johnston". The signature is written in black ink and is positioned above the printed name and address.

A. Sidney Johnston
Reg. No. 29,548
CESARI AND MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414
(617) 951-2500